

DEPARTMENT OF STATE REVENUE

Revenue Ruling 98-15 ST

March 16, 1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superceded or deleted by publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Sales and Use Tax Application to Mausoleums

Authority: IC 6-2.5-2-1, IC 6-2.5-4-1, IC 6-2.5-3-2, IC 6-2.5-5-8

Taxpayer requests the Department to rule on the taxability of one to four crypt mausoleums sold to retail customers.

STATEMENT OF FACTS

Taxpayer is a wholesale and retail distributor of grave monuments and mausoleums. Taxpayer sells one to four crypt mausoleums for placement in cemeteries.

DISCUSSION

Pursuant to IC 6-2.5-2-1, a sales tax, known as state gross retail tax, is imposed on retail transactions made in Indiana. IC 6-2.5-4-1 provides that a retail transaction involves the transfer of tangible personal property. Pursuant to IC 6-2.5-3-2, "an excise tax, known as the use tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making that transaction."

Taxpayer is concerned about cases where suppliers in other states charge the taxpayer sales tax for their purchase of mausoleums. IC 6-2.5-5-8 provides that transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for resale in the ordinary course of his business without changing the form of the property. Taxpayer's purchases of mausoleums in Indiana are exempt provided that the property is acquired for resale and taxpayer issues an exemption certificate to the supplier.

RULING

The Department rules that taxpayer's purchases of mausoleums for resale are exempt from gross retail tax.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in a statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

DEPARTMENT OF STATE REVENUE